

REMARKS

This reply is in response to the final Office Action mailed October 23, 2009. In the Office Action, method claim 36 was objected to as improperly depending from apparatus claim 33. Claims 1-2 and 34-38 were rejected under 35 U.S.C. § 102(b) as being anticipated by Rode et al. U.S. 5,184,996. Alternatively, claims 1-2 and 34-39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rode et al. Claims 3-12, 14-19 and 21-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rode et al. in view of Wingerter U.S. 5,393,291. Claims 31-33 and 40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rode et al. in view of Curtis U.S. 3,634,995. Finally claims 13 and 20 were objected to as being dependent on a rejected base claim but were indicated as being allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

With this response, claims 1, 3, 10, 19, 34 and 36 are amended to further clarify the claimed subject matter and to advance prosecution. Claim 20 is canceled. For the reasons set forth below, applicant respectfully requests reconsideration and allowance of the pending claims.

Claim Objections

Claim 36 was objected to under 37 CFR 1.75 as being in improper form because it depends from claim 33, which is an apparatus claim. Claim 36 has now been amended to depend from claim 34. As such, applicant respectfully requests withdraw of the objection to Claim 36.

Objected to claims

Claims 13 and 20 were indicated as being allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Claims 1 and 34 were amended to include the limitations of Claim 20. However it is respectfully submitted that the limitations of every intervening claim are not required for patentability.

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With this response, Claim 1 has been amended to recite a finger that is "positionable internally of the enclosure assembly through an aperture of one of the walls of the enclosure assembly in a first orientation, and the finger received through the aperture in the first orientation and the finger moveable to a second orientation, and the finger not being removable back through the aperture in the second orientation, wherein when internally located and in the second orientation, the finger engages with an internal surface of one of the walls and when driven, the finger expands the walls relatively apart."

Claim 34 was amended to recite "causing a finger to move from a position external of the enclosure assembly to a position internal to the enclosure assembly through an aperture of one of the walls of the enclosure assembly with the finger in a first orientation and then when internal of the enclosure assembly, moving the finger to a second orientation, and in the second orientation the finger not being removable back through the aperture, and when in the position internal to the enclosure assembly and in the second orientation, driving the finger so that the finger engages with the wall and expands the walls relatively apart."

Because nothing in the references cited by the Examiner teaches or suggests the claimed combination of features set forth in Claim 1 or the combination of method steps set forth in Claim 34, it is submitted that these claims and the claims that depend thereon are allowable.

Rejections under 35 U.S.C. Section §102(b)

To show that a claim is anticipated under section 102(b), each and every element as set forth in the claim must be found, either expressly or inherently, in a single prior art reference *Verdegaal Bros. Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); MPEP 2131. Applicant asserts that none of the cited and applied references anticipates claims 1-2 and 34-38 as alleged in the Office Action because each and every element as set forth in claims 1 and 34 is not taught or suggested by the cited references.

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As set forth above, nothing in the Rode et al. U.S. 5,184,996 discloses an apparatus for assembling a collapsible enclosure that includes a finger positionable internally of an enclosure through an aperture of one of the walls of the enclosure assembly in a first direction and the finger moveable to a second orientation and the finger not being moveable back through the aperture in the second orientation, wherein when internally located in the second orientation, the finger engages an internal surface of one of the walls and when driven, the finger expands the walls relatively apart. For example, in the Rode et al. reference, the container is opened with suction cups that engage the exterior of the cover. See Col. 3, lines 1-16. Because the Rode et al. reference does not teach or suggest each feature of claim 1 as amended, it is submitted that claim 1 is not anticipated and it is requested that the rejection be withdrawn.

With respect to claim 34, it is submitted that the Rode et al. reference does not disclose each and every method step including the steps of causing a finger to move from a position external of the enclosure assembly to a position internal to the enclosure assembly through an aperture of one of the walls of the enclosure assembly with the finger in a first orientation and then when internal of the enclosure assembly, moving the finger to a second orientation, and in the second orientation the finger not being removable back through the aperture. As indicated with respect to claim 1, the Rode et al. reference teaches opening a container with external suction cups and not by moving a finger as set forth in claim 34. It is therefore submitted that claim 34 is not anticipated and it is requested that the rejection be withdrawn.

With respect to claims 2 and 35-38, it is submitted that these claims depend from allowable independent claims and are therefore allowable at least by virtue of their dependency.

Rejections under 35 U.S.C. §103(a).

A *prima facie* case of obviousness may be established under section 103 if "all the claimed elements were known in the prior art and one skilled in the art could have combined the

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elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007); MPEP 2143.

Claims 1-2 and 34-39.

Applicant respectfully asserts that the combination of the cited and applied references proposed in the Office Action fail to establish a *prima facie* case of obviousness because not all the elements of Claims 1-2 and 34-39 were known in the art. Nothing in the references cited by the Examiner teaches or suggests at least a "finger positionable internally of the enclosure assembly through an aperture of one of the walls of the enclosure assembly in a first orientation, and the finger received through the aperture in the first orientation and the finger moveable to a second orientation, and the finger not being removable back through the aperture in the second orientation", as set forth in claim 1. Therefore, it is submitted that a *prima facie* case of obviousness has not been established and it is requested that the rejection be withdrawn.

With respect to claim 34, it is submitted that nothing in the Rode et al. or the other cited references teach or suggest at least the steps of causing a finger to move from a position external of the enclosure assembly to a position internal to the enclosure assembly through an aperture of one of the walls of the enclosure assembly with the finger in a first orientation and then when internal of the enclosure assembly, moving the finger to a second orientation, and in the second orientation the finger not being removable back through the aperture. Therefore, a *prima facie* case of obviousness has not been made and it is requested the rejection be withdrawn.

With respect to claims 2 and 35-39, it is submitted that these claims are allowable at least by virtue of their dependency and in view of the additional features they recite.

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Claims 3-12, 14-19 and 21-30.

Claims 3-12, 14-19 and 21-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rode et al. in view of Wingerter U.S. 5,393,291. In response, it is submitted that these claims depend directly or indirectly from independent claim 1 and are therefore allowable at least by virtue of their dependency.

CONCLUSION

In light of the above, it is submitted that all claims are in condition for allowance. If the Examiner has any remaining questions about the application, the Examiner is invited to call applicants attorney at the number listed below.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Rodney C. Tullett", is written over the printed name.

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